



## INTERIOR BOARD OF INDIAN APPEALS

Confederated Tribes of the Colville Reservation v. Assistant Secretary - Indian Affairs

16 IBIA 22 (12/09/1987)



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

CONFEDERATED TRIBES OF THE  
COLVILLE RESERVATION,  
Appellant

v.

ASSISTANT SECRETARY--INDIAN  
AFFAIRS,  
Appellee

: Order Docketing and Dismissing  
: Appeal  
:  
:  
:  
: Docket No. IBIA 88-9-A  
:  
:  
: December 9, 1987

On November 30, 1987, the Board of Indian Appeals (Board) received a notice of appeal from the Confederated Tribes of the Colville Reservation (appellant), through counsel, Alan C. Stay. Appellant seeks review of an October 1, 1987 memorandum to Bureau of Indian Affairs (BIA) Area Directors from the Assistant Secretary--Indian Affairs. The memorandum concerns the discontinuation of tribal Individual Indian Money (IIM) accounts. Appellant argues that the memorandum sets forth a major change in existing policy and procedure and constitutes the promulgation of a "rule" within the meaning of the Administrative Procedure Act, 5 U.S.C. § 551(4), without publication in the Federal Register, as is required by 5 U.S.C. § 553.

The appeal is docketed under the above case name and number which should be cited in all future correspondence or inquiries regarding the matter.

A copy of the October 1, 1987, memorandum was provided to the Board. The memorandum was signed by the Assistant Secretary--Indian Affairs. Assuming arguendo that the memorandum would otherwise constitute an appealable decision, the Assistant Secretary has the authority to issue decisions final for the Department. The Board does not have general review authority over such decisions, except as they are specially referred to it on a case-by-case basis or through rulemaking. See, e.g., Pueblo of Laguna v. Assistant Secretary for Indian Affairs, 12 IBIA 80, 90 I.D. 521 (1983); 25 CFR 13.15. This matter has not been so referred to the Board.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Assistant Secretary's October 1, 1987, decision is dismissed.

//original signed

Kathryn A. Lynn  
Acting Chief Administrative Judge

//original signed

Anita Vogt  
Administrative Judge